

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 24, 2009

Ref. No.: GLS-5264

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

HAWAII

Consent to Assign General Lease No. S-5264, HITV Operating Co., Inc.,
Assignor, to Hawaii Public Radio, Humuula, North Hilo, Hawaii, Tax Map Key:
3rd/ 3-8-01: 11.

APPLICANT:

HITV Operating Co., Inc., as Assignor, to Hawaii Public Radio, a Hawaii non-profit
corporation, whose business and mailing address is 738 Kaheka Street, Honolulu, Hawaii
96814, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Humuula, North Hilo, Hawaii, identified by Tax
Map Key: 3rd/ 3-8-01: 11, as shown on the attached map labeled Exhibit A.

AREA:

2.038 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ____ NO x

CHARACTER OF USE:

Microwave T.V. Relay Station purposes.

TERM OF LEASE:

25-years, commencing on July 8, 1993 and expiring on July 7, 2018. The last and final rental reopening was conducted on July 8, 2008.

ANNUAL RENTAL:

\$19,195.00 Due in semi-annual installments of \$9,975.00, on the eighth of January and July, of each and every year.

CONSIDERATION:

Gratis.

RECOMMENDED PREMIUM:

None. Staff Appraiser has determined that there are no premiums due the State as there is no monetary consideration involved in this assignment.

DCCA VERIFICATION:

ASSIGNOR:

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Good standing confirmed:	YES <u>x</u>	NO

ASSIGNEE:

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Good standing confirmed:	YES <u>x</u>	NO

REMARKS:

Subject site was originally encumbered under Revocable Permit No. S-1630, commencing on 6/1/56, to the Hawaiian Broadcasting System, Ltd., for microwave T.V. Relay Station purposes.

Through public auction held on August 11, 1958, General Lease No. S-3573 was awarded to the Hawaiian Broadcasting System, Ltd., as the highest bidder. The 21-year lease included requirements for construction of improvements for microwave T.V. relay station facilities at a cost of not less than \$19,000.00 within one-year of execution of the lease.

By mesne conveyances, General Lease No. S-3573 was under Lee Enterprises, Inc. at expiration of subject lease and during a one-year holdover. Assignments of Lease were as follows:

Lessee/Assignor	Assignee	Effective date/ Bd Action
State of Hawaii	Hawaiian Broadcasting System	8/11/58: Auction
Hawaiian Broadcasting System	Pacific Broadcasting Company	6/7/65
Pacific Broadcasting Company	Heftel Broadcasting Corp	1/22/73: Name change
Heftel Broadcasting Corp.		1/11/80, F-2; Hold-Over 11/8/79-11/7/80
Heftel Broadcasting Corp.	Lee Enterprises, Inc.	10/10/80, F-1-e

At its meeting of 8/8/75, Item F-1-c, the Board consented to the sublease between Heftel Broadcasting Corp, Sublessor, to the Hawaii Medical Association-Emergency Medical Services Program and Department of Health, as Sublessee, covering a portion of the demised premises.

At its meeting of 12/19/80, Item F-1-a, the Board approved Revocable Permit No. S-5933 to Lee Enterprises, Inc., for operation and management of microwave T.V. relay station facilities. Periods covering 12/19/80 to 7/8/93.

General Lease No. S-5264, a 25-year lease for Microwave T.V. Relay Station site was awarded to Lee Enterprises, Inc., as the successful bidder at a public auction held on July 8, 1993.

At its meeting of August 12, 2005, the Board of Land and Natural Resources, under Item D-5, approved Consent to Assignment of General Lease No. S-5264, Lee Enterprises, Inc. to Emmis Television Broadcasting, LP.

At its meeting of January 25, 2008, Item D-3, the Land Board approved Consent to Assignment of General Lease No. S-5264, Emmis Television Broadcasting, LP. to HITV Operating Co., Inc.

By letter dated March 12, 2009, Mr. Craig P. Wagnild of Bays Deaver Lung Rose and Holma, Attorneys at Law, requested consent to assignment of General Lease No. S-5264, HITV Television Broadcasting, LP., Assignor, to Hawaii Public Radio, Inc., Assignee.

Purpose of the assignment is due to the recent federally-mandated transition from analog to digital transmission. As a result, HITV is no longer able to use the tower erected on the property for transmission of its television signal and has no other need for the property. In an effort to mitigate the effects of the FCC's actions, HITV secured a replacement lessee who is interested and willing to accept and assume all of the lessee's obligations under the lease. Applicant has advised staff that there is no monetary consideration being exchanged by the parties in connection with this proposed assignment and assumption of lease. An unexecuted copy of the Assignment, Assumption and Release Agreement was provided for review.

Staff reviewed the file and reports that over the past two (2) years, a notice of default was sent on 1/30/09 for rent and a notice of default for liability insurance on 7/11/08. Both defaults were cured immediately after the notices were sent. Liability insurance expires on 6/1/09.

Hawaii Public Radio, Inc., has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The last and final rental reopening was conducted on July 8, 2008. There are no outstanding rental reopening issues.

No agency or community comments were solicited, as there will be no change in disposition or use of the land.

The continuing land use for this site commenced prior to the creation and regulation of land uses within the State Conservation Districts in 1964. Therefore, the present and future use of the subject site for telecommunications facility purposes is "grand-fathered" and not subject to the filing of a Conservation District Use Application.

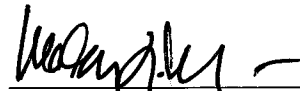
RECOMMENDATION:

That the Board consent to the assignment of General Lease No. S-5264 from HITV Operating Co., LP., as Assignor, to Hawaii Public Radio, Inc., as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and

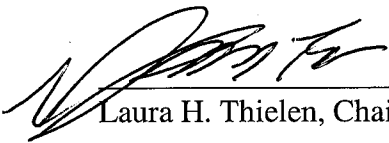
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



